

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Brett Thomas Green,

Civ. No. 14-857 ADM/BRT

Plaintiff,

v.

ORDER

Hearing Officer on report 452704; and
Warden of Stillwater MCF, in their
individual capacities,

Defendants.

Brett Thomas Green, MCF-Rush City, Rush City, MN, *pro se* Plaintiff.

Margaret E. Jacot, Esq., Minnesota Attorney General's Office, counsel for Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Becky R. Thorson dated April 28, 2015 [Docket No. 24] and Plaintiff Brett Thomas Green's Motion for Judgment on the Pleadings [Docket No. 23]. No objections have been filed to the Report and Recommendation in the time period permitted. As to Plaintiff's Motion for Judgment on the Pleadings, Plaintiff provided no legal argument in support of his Motion, claiming only that he is immediately entitled to a total of \$645.00 in compensation. No judgment has been entered in Plaintiff's favor and his motion fails to establish that he is entitled to judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). Faibisch v. Univ. of Minn., 304 F.3d 797, 803 (8th Cir. 2002) ("Judgment on the pleadings is appropriate when no material issue of fact remains to be resolved and the movant is entitled to

judgment as a matter of law.”). Based on all of the files, records, and proceedings herein, the Court now makes and enters the following Order.

IT IS HEREBY ORDERED that:

1. The Report and Recommendation [Docket No. 24] is **ADOPTED**;
2. Defendants’ partial motion to dismiss [Doc. No. 13] is **GRANTED**;
3. The following claims are **DISMISSED WITH PREJUDICE** pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted: (a) Plaintiff’s procedural due process claim insofar as it relates to his placement in disciplinary segregation; (b) Plaintiff’s due process claim relating to the loss of his personal property; and (c) Plaintiff’s Eighth Amendment failure-to-protect claim. The only claim that remains is the Plaintiff’s claim that his procedural due process rights were violated when he was required by prison officials to pay restitution;
4. Plaintiff’s Motion for Judgment on the Pleadings [Docket No. 23] is **DENIED**; and

5. The Clerk of Court is directed to change the Defendant identified as “Warden of Stillwater MCF” to “Warden Michelle Smith” and the Defendant identified as “Hearing Officer on report #452704” to “Hearing Officer Michael Parks”.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: May 19, 2015.